

# **Overview Paper**

**on**

## **The Role of the APRM in Strengthening Governance in Africa: Opportunities & Constraints in Implementation**

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## 1. Introduction

There is no doubt that the African Peer Review Mechanism (APRM) is the most ambitious piece of innovation to have come out of Africa since decolonisation. It is a far sighted mutually agreed instrument for self-monitoring by the participating states.<sup>2</sup> APRM officials have rightly described it as ‘Africa’s Innovative Thinking on Governance.’<sup>3</sup> Obviously, it has a lot of institutional, legal and mechanical problems like any other concept but the idea behind it has no precedent in post-colonial governance in Africa. In the practice of the African state ever since decolonization, the APRM is *sui generis*.<sup>4</sup>

One of Africa’s greatest problems since independence is simply governance.<sup>5</sup> On the eve of his country’s peer review, President Mwai Kibaki of Kenya said ‘the African Peer Review Mechanism is our own process as Africans to enable us to govern our nations better, turn Africa into a working continent, and prepare the way for our children and grandchildren to live in an Africa that is politically and economically stable’.<sup>6</sup> In terms of its official dimension,<sup>7</sup> the APRM aims to address governance deficits in African countries.

Governance deficit is ‘independent’ Africa’s perennial headache and therefore it is good that there finally is this recognition that Africa owes Africa a large debt to put things right as far as governance is concerned. As the tool to bring about good governance, the APRM has the primary task to push states to pursue policies and practices that conform to the agreed political, economic and corporate governance values, codes and standards

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<sup>2</sup> . NEPAD/HSGIC/CO3-2003/APRM/Memorandum of Understanding/Annex11

<sup>3</sup> . A presentation prepared by the APRM for the Eighth Gathering of the African Partnership Forum, Berlin, Germany, 22 to 23 May, 2007.

<sup>4</sup> . However, there are other even more competitive rankings of African governance performance including the one recently introduced by Sudanese billionaire Mo Ibrahim. The Panel of Eminent Persons for the Mo Ibrahim ranking is chaired by former UN Secretary General Kofi Annan. Though the ranking purports to focus also on the country, a huge monetary prize of US\$ 5 million is given to the individual former Head of State whom the Panel believes represents the values of an open democratic society including change, peace, stability and development. Former President of Mozambique Joachim Chisano was announced winner of the first ranking. Africa Monitor, Africa Voices for Africa’s Development, Mo Ibrahim Foundation launches world’s most competitive ranking of African governance, 25 September, 2007, [www.africanmonitor.org/node/98](http://www.africanmonitor.org/node/98)

<sup>5</sup> . I use the difficult word ‘governance’ broadly to include both its internal and external ramifications the later to refer to the developments on the external scene which impact negatively on Africa. For example, the World Bank and IMF, in which important policy makers in these institutions are never elected by the beneficiaries of their policies - mostly people in African and third world countries - and therefore not accountable to them have had significant negative impact on the latter countries. Governance, not necessarily democracy in the narrow sense of regular and fair elections in the internal sense but broadly speaking has been Africa’s nightmare.

<sup>6</sup> . Press Statement for H.E. President Mwai Kibaki on the Occasion of the APR Heads of State Forum, July 2006, [www.nepadkenya.org/key\\_issues.htm](http://www.nepadkenya.org/key_issues.htm)

<sup>7</sup> . NEPAD/HSG/C/CO3 – 2003/APRM/MOU/ANNEX 11

contained in the Declaration on Democracy, Political, Economic and Corporate Governance<sup>8</sup>. As stated in its founding instruments, its primary objective is:

#### Box 1

To foster the adoption of policies, standards and practices that lead to political stability, high economic growth, sustainable development and accelerated sub-regional and continental economic integration through sharing of experiences and reinforcement of successful and best practice, including identifying deficiencies and assessing the needs for capacity building (APRM Base Document 2001, paragraph 3)

It being *sui generis*, however, the Mechanism is expected to operate without the benefit of prior precedent, at least as far as recent history is concerned. But because it is connected with science, it will not exactly work like fortune-telling. The Base Document, other relevant instruments as well as experience sharing will be the background against which to chart the way forward. In current political terms, the APRM is the basic instrument invented by Africa's leaders to implement the New Partnership for Africa's Development (NEPAD). It is the technical arm of NEPAD set to give direction and predisposition to the African Union (AU) and therefore to the often quoted African Renaissance.

Thus far five countries have successfully completed the five stages constituting the base or maiden review: Ghana, Rwanda, Kenya, South Africa and Algeria, in that order. For Ghana, it is a 'dance' it has gone through before being the first Sub-Saharan African country to gain independence from colonialism. The only other country besides Ethiopia to have faced genocide in independent Africa, Rwanda deserves praise for picking up the ashes and going through the process. South Africa, one of the two authors of the NEPAD and later Algeria, have joined Ghana and Rwanda to be among the first participating countries to go through the process. Kenya, one of the first of the East African countries to undergo democratisation has again led the way and joined the first few countries to undergo the process. Therefore, of the twenty-six participating states that have acceded to the Mechanism, twenty-one are still to take the plunge: Angola, Benin, Burkina Faso, Cameroon, Egypt, Ethiopia, Gabon, Lesotho, Malawi, Mali, Mauritius, Mozambique, Nigeria, Republic of Congo, Sao Tome and Principe, Senegal, Sierra Leone, Sudan, Tanzania, Uganda and Zambia.

### 1. Concept of Peer Review

Even though Zein Kebonang<sup>9</sup> has claimed that there was *literature famine* on the concept of peer review, he was nevertheless able to navigate around the concept using the scant

<sup>8</sup> AHG/235/XXXV111, Annex 1

<sup>9</sup> . Zein Kebonang, The Partnership for Africa's Development: Making the African Peer Review Mechanism Work, Critique. A worldwide journal of politics, Fall 2005

literature he could find. For example, based on Ngamau,<sup>10</sup> Kebonang suggested that peer review is a concept which involves two broad areas. In the first place, it concerns evaluation of proposals and projects by experts. Second, it is used, he said, in the monitoring of state compliance with a provision of a treaty. Significantly, he referred to the OECD<sup>11</sup> which, drawing from its experience with peer reviews, explained that peer review involves a systematic examination and assessment of either the performance or practices of a state by other states (peers) or designated institutions.<sup>12</sup>

None of these, however, have dared suggest the concept may have African origins. Most of those that have written on the concept have tended to see it as European construct which makes it very hard to sell in Africa. However, literature on early African society abundantly shows that quite the contrary, peer review is not an alien concept in African civilisation. For example, both Jomo Kenyatta<sup>13</sup> and Nelson Mandela<sup>14</sup> teamed up to show that peer review has a traditional African conception. In their respective discussions on traditional African society, the two leaders easily found practices of peer review in African age-groups as a common phenomena. An African faced with a situation would turn to his or her peers according to age-groups for counsel, advice or direction, rarely to his or her parents. Therefore, peer review in its original sense is an African invention that was critical towards ensuring a stable governance system in traditional African society before colonialism. As a social value, peer review ensured individual and community peace and security thereby maintaining social cohesion and equilibrium which is the goal of the APRM.

Related to the above is the controversial issue of ownership. It is very important to be clear with regards to ownership because Africans will implement the concept to the extent they are convinced they have property in it. Unfortunately, this has been one of the most contentious issues which partly accounts for the lack of enthusiasm to implement the Mechanism when called upon. Two positions have dominated debate here. On the one hand, African leadership has held the view as President Mwai Kibaki stated<sup>15</sup> above that the APRM is African owned. For example, speaking to a panel discussion on Multi-Stakeholders Perspectives on the Implementation of NEPAD organised by the Office of the Special Adviser on Africa (OSAA) to the United Nations' (UN) Secretary General in October 2005, APRM Eminent Person Dr. Dorothy Njeuma described the APRM as 'African-owned...'.<sup>16</sup> Similarly, presenting their paper to the Eighth Gathering of the

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<sup>10</sup> . Ngamau, R. 2004, 'The Role of NEPAD in African Economic Regulation and Integration' *Law and Business Review America* 10: 515-544

<sup>11</sup> . Organization for Economic Co-operation and Development (<http://www.oecd.org/>)

<sup>12</sup> . OECD, 2003. 'The Peer Review. A tool for co-operation and change', Paris, France; Pagari, F. 2002. 'Peer Review. A Tool for Co-operation and Change'. An Analysis of the OECD Working Method', OECD Working Paper, SG/LEG (2002), Paris; Kanbur, R. 2004. 'The African Peer Review Mechanism (APRM). An Assessment of Concept and Design.' See: [www.cornell.edu/pages/sk145](http://www.cornell.edu/pages/sk145)

<sup>13</sup> . Jomo Kenyatta, *Facing Mount Kenya*, 1938, pp. 130-185

<sup>14</sup> . Nelson Mandela, *Long Walk to Freedom*, 1994, pp. 17-29

<sup>15</sup> . Note 5

<sup>16</sup> . Report on the Panel Discussion on Multi-Stakeholders' Perspectives on the Implementation of the New Partnership for Africa's Development (NEPAD): Four Years After, 13 October 2005, United Nations Headquarters, New York.

African Partnership Forum, the APRM Panel described the mechanism as a ‘unique African instrument .... it is African in origin, African inspired and African owned’.<sup>17</sup>

On the other hand, African Civil Society in the very opening paragraph of the first-ever Declaration on the role of Civil Society with regards to the APRM called on African governments to ‘promote ownership of the APRM by the people and allocate sufficient resources for it to remain an African instrument serving African interests’.<sup>18</sup> Therefore, the APRM is not exactly the same to all stakeholders. For example, though it has been hailed by some of the commentators<sup>19</sup> as panacea for Africa’s governance challenges, it has been ridiculed and even dismissed by others.<sup>20</sup>

What could be the reason behind the mixed perceptions? Partly, the answer, it would appear, lies in the origination of the concept. When the concept was being developed the people were not involved. It was left to the Heads of State and Government to conceive and develop it.<sup>21</sup> Since this is presently an occasion for experience sharing and peer learning, one distinct lesson from this is that especially NEPAD, and through it the APRM, people were excluded from having a say in the origination of the concepts. All the six Summits of Heads of State and Government of Implementation Committee (HSGIC) of NEPAD since 2003 do not indicate people involvement right till the concepts were ready for the market. All the crucial meetings of the HSGIC in which the concept and crucial documents were being developed were effectively closed to the public.<sup>22</sup> It would appear ironical that the APRM concept which prides itself on being the concept for good governance nevertheless did not play to good governance in its development. This seems to be the problem which persists to this day. The concept and institutions were developed by the leaders in closed door sessions and then handed to the public for implementation. However some progress has been made and CSOs are now advocating for the increased participation in the APRM process because the mechanism is viewed as offering the best opportunity to dialogue with the state and its representatives on governance.

Closely connected to concept is the question what the concept and mechanism of peer review is all about? Whether and to what extent does the APRM concept allows for a more robust discussion of African records of governance including criticism and where necessary reprimand has been a subject of animated discussion. Again, there are two

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<sup>17</sup> . Note 3

<sup>18</sup> . Addis Ababa Declaration on the role of African Civil Society with regard to the African Peer Review Mechanism (APRM), 17-18 January 2006, Addis Ababa, Ethiopia. Organised by the Christian Relief and Development Association (CRCDA) and Partnership Africa Canada (PAC), in collaboration with the Economic Commission for Africa (ECA) on the theme of ‘The African Peer Review Mechanism and Civil Society’.

<sup>19</sup> . Malachia Mathoho, ‘An African Peer Review Mechanism: a panacea for Africa’s governance Challenges?’ Johannesburg Centre for Policy Studies, Policy Brief 329, August 2003; 12

<sup>20</sup> . Newell M. Stultz, African States Experiment with Peer-Reviewing. The APRM, 2002 to 2007, Brown Journal of World Affairs 13:2 (Summer/Fall 2007)

<sup>21</sup> . Dani Venter & Ernst Neuland, NEPAD and the African Renaissance, 2005, pp. 261-281

<sup>22</sup> . But the original documents including the APRM Base Document, MoU, Questionnaire, Guidelines for Country Review Missions, etc., were drawn among others by NEPAD, organisations, Secretariat, individuals, etc. Again, people especially African civil society involvement was limited if at all.

different views here one of them at ease with sanction and reprimand of unperforming governments while the other completely opposed to it.

Essentially there are different interpretations of peer review; one based on “learning” as you go, and the other tied to corrective actions based on sanctions or reprimand. African countries have adopted the former approach in part based on the history of conditionalities and punitive sanctions of the structural adjustment programs.

Just like Zein Kebonang,<sup>23</sup> the South African Institute of International Affairs (SAIIA) has likened the review concept to the reviews of an academic’s work or publication by other academics.<sup>24</sup> While this may be true, the idea that based on the negative comments by the reviewer, the publication may be rejected by the editorial board and therefore not appear in the journal could contradict the philosophy behind the APRM as just discussed. APRM does not seek to exclude from review those States whose record is found not to be positive.

However, there are at least two reasons to contradict the view that the philosophy underlying the APRM is non-adversarial. Even though in its original form the concept is meant to be purely peer learning and experience sharing, it does not in its contemporary usage exclude adversarial as a methodology for review. This, for example, is the literal meaning of Base Document paragraph 24 which states:

#### Box 2

Where a country shows a willingness to rectify the identified shortcomings based on the findings of these review, participating countries, donor governments and agencies are expected to come to its assistance (APRM Base Document 2001, paragraph 24). Where a state wilfully fails to take appropriate measures to implement the recommendations of the review, such a deviant or recalcitrant state may be subjected to collective adverse action. Whatever this ‘collective adverse action’ is, it is to be resorted to only after all attempts at constructive dialogue have failed, and again only as a measure of last resort (APRM Base Document 2001, paragraph 24)

The principle in the foregoing paragraph in fact suggests adversarial action or measures against a state that has wilfully failed to take corrective measures and implement the recommendations of the review. Use of the strong words ‘deviant’ and ‘recalcitrant’ is reminiscent of human rights advocacy in relation to states that are not complying with their basic obligations which foists the APRM in the same class with human rights activists.

However, since it was formally introduced in 2003, the APRM has launched reviews in 13 countries. It has undertaken Country Review Missions (CRM) in five of these Ghana (April 2005); Rwanda (April 2005), Kenya (October 2005); South Africa (July 2006) and Algeria (December 2006). Subsequently, peer reviews at the level of Heads of State

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<sup>23</sup> . Note 3

<sup>24</sup> . South African Institute of International Affairs, [www.saiia.org.za](http://www.saiia.org.za)

and Government have been successfully conducted in all these countries as follows: Ghana (January 2006); Rwanda and Kenya (June 2006); and more recently, South Africa and Algeria (June 2007).

## **2. Key challenges would include:**

1. Lack of legal and institutional status of the Mechanism;
2. Lack of accountability and transparency of both the Panel of Eminent Persons and the APR Forum;
3. Prolonged process consuming several months before the peer review;
4. Reluctance by participating countries to undergo the process after support mission
5. Complicated Questionnaire not available in local tongues;
6. Questionnaire that is insensitive to local situations and circumstances;
7. A standard methodology that is unable to encapsulate specific needs;
8. Lack of appropriate monitoring and evaluation frameworks;
9. Lack of resources to implement the PoA in participating countries;
10. An unsustainable source of funding both for national and continental APRM processes;
11. Absence of a formula to incorporate the National PoA in existing programmes, plans and activities

### **2.1 Best practices, positive experiences and important lessons from the reviewed countries include the fact that the APRM:**

1. Facilitates peer learning among Heads of State and Government of participating countries;
2. Improves institutions of governance in reviewed countries;
3. Provides space for the multifaceted dialogue and open discussion of national agenda;
4. Enables participation by stakeholders and the general public through workshops, meetings, radio, print media, etc;
5. Provides a channel for review of national priorities and existing programmes, plans and activities
6. Empowers people through civil society to demand accountability from their leaders;
7. Gives business an opportunity to demand for fairer business environment and the public to demand social responsibility from business;
8. Provides a mechanism to monitor state compliance with international, regional and local obligations on human rights and fundamental freedoms;
9. Creates opportunity for reviewing past achievements, challenges and failures in governance;
10. APRM is a platform for mutual learning and experience sharing at all levels of society

## **3. APRM: Constitutional wilderness**

Although the APRM begun in earnest in 2003, with the Support Missions and Country Review Missions for Ghana and Rwanda starting in 2005, the APRM just like the New Partnership for Africa's Development (NEPAD) lacks definitive legal status. In discussing the role of the APRM in strengthening governance, this is crucially important. The Memorandum of Understanding (MOU), which is declared to be the accession document for the APRM, and various other documents developed by the 6th Summit of the Heads of State and Government Implementation Committee, nevertheless lack basic legal standing in international law.

As constituted, and notwithstanding the clear and express desire from the Base Document, the APRM cannot per se force a participating country to comply with its commitments or promises under any of the instruments using law. For instance, failure by a participating State to move from Support Mission to self-assessment stage has no legal consequences. APRM cannot insist on compliance or threaten legal measures upon a deviant state. Yet, APRM documentation uses legal terminologies like 'acceding to the Memorandum of Understanding', etc. In fact not being a treaty this constitutes in appropriate use of language.

### Box 3

To undertake consultations with representatives of each region on the Heads of State and Government Implementing Committee on the appointment of the Chairperson and Members of the Panel of Eminent Persons. The Heads of State and Government Implementation Committee (HSGIC) took note that the Chairperson consulted widely and received many nominations from various sources including African Union Member States which have acceded to the African Peer Review Mechanism, NEPAD, organisations, individuals (Seventh Summit of HSGIC, Abuja, Wednesday, 28 May 2003)

Related to this is the question of the status of the Panel of the Eminent Persons. This too is established in soft law. According to the Base Document,<sup>25</sup> which was interpreted in Box 4 above, Eminent Persons will be nominated by participating countries and appointed by the APR Forum for an initial four years. Hence, there was no public announcement or call for nominations beyond the HSGIC. This alone dents the integrity of the individuals concerned. However qualified and widely respected, rules should not have been compromised in their case as more than anything else, it is bad for them to be seen to come only from one direction – from the direction of the Head of State or Government! In an increasingly pluralised African society such as in Africa, it is important that basic minimum rules of transparency and accountability are seen to be respected across the board.

The term of office of the current Panel members has expired. However, because the Base Document is not legally-binding, it was decided at the last APR Forum in Accra, Ghana

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<sup>25</sup> . APRM Base Document, [www.nepad.org/aprm](http://www.nepad.org/aprm)



in June this year to find a political solution to their expired mandate. Their term was renewed for a further period of one year. Rather than deal with the problem on this adhoc basis, which in fact makes it even more uncertain, there is need to address it comprehensively and legally.

#### **4. Institutional Framework of the APRM**

##### **Box 4**

At the 6th Summit<sup>26</sup> of the Heads of State and Government Implementation Committee (HSGIC) of the NEPAD, held on 9 March 2003, the HSGIC adopted the following documents on the African Peer Review Mechanism (APRM):

- (i) Memorandum of Understanding (MOU) on the APRM [NEPAD/HSGIC/03-2003/APRM/MOU] which is the accession document for the APRM;
- (ii) Declaration on Democracy, Political, Economic and Corporate Governance [AHG/235(XXXV111) Annex 1];
- (iii) APRM Base Document [AHG/235(XXXV111) Annex 11];
- (iv) APRM Organisation and Processes [NEPAD/HSGIC/03-2003/APRM/Guideline/O&P];
- (v) Objectives, Standards, Criteria and Indicators for the APRM [NEPAD/HSGIC/03-2003/APRM/Guideline/OSC1]; and
- (vi) Outline of the Memorandum of Understanding on Technical Assessments and the Country Review Visit [NEPAD/HSGIC/03-2003/APRM/Guideline/Outline]

These documents constitute the source of APRM principles. They provide an educated elaboration of the organization and process of the APRM. Moreover, they indicate and provide a basic example of the criteria for undertaking the peer review. But in addition to these, the Organisation and Processes Document further mandates the APR Secretariat to produce guidelines governing country visits in addition to what is contained here but these must be approved by the APR Forum prior to their entry into force.

##### **4.1 APRM Base Document**

Besides the Declaration on Democracy,<sup>27</sup> the Base Document<sup>28</sup> is the most superior instrument pronouncing both on the establishment and implementation of the APRM. Of course the Base Document should be read holistically in conjunction with related documents, instruments and decisions. Reading the document in an isolated way would not yield a complete picture of the issues it deals with. For example, paragraph 15 on the APRM process which provides for periodic reviews of the policies and practices of

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<sup>26</sup> . NEPAD/APRM/Pane13/guidelines/11-2003/Doc8

<sup>27</sup> . Note 8

<sup>28</sup> . Note 30

participating states refers to the Declaration on Democracy, Political, Economic and Corporate Governance as the source of the values, codes and standards of governance against which the process of review is to be measured and considered.

While it is normal that participating States are likely to find the Guidelines<sup>29</sup> for countries to prepare for and to participate in the APRM to be more important, the Base Document is nevertheless the heart and soul of the mechanism while the Guidelines and other instruments can be likened to the limbs to the human body.

According to paragraph 28 of the Base Document, which states that ‘the Conference of participating countries shall review the APRM once every five years,’ the APRM is a living document. Based on this, the whole APRM is up for review. A meeting was held in November 2007 to address these issues and proposal made for a revision of the instruments and base documents.

The Base Document provides for several features relevant to the APRM including mandate; purpose of the APRM; principles; participation in the peer review process; leadership and management structures; periodicity and types of peer review; APRM process; stages of the peer review process; duration of the peer review; funding of peer review mechanism, etc.

Among other things, the APRM is mandated, to ensure that the policies and practices of the participating States conform to the agreed political economic and corporate values, codes and standards’ contained in the Declaration. Therefore, the adoption of these codes and standards is the principal purpose and objective of the APRM. This is to be done on the basis of principles which ensure and assure a ‘technically competent, credible process which is free of political manipulation’.

The issue of participation is guided by the usual principle that membership to the AU automatically opens the door to the membership of AU organs and mechanisms. The only exception, however, would seem to be membership to the NEPAD which is automatically based on membership to the AU. Otherwise, an AU member merely notifies the Chairman of NEPAD Heads of State and Government Implementation Committee of intention to join the mechanism. However, there is a post-access undertaking that the acceding member must comply with namely ‘to submit to periodic reviews as well as facilitate such reviews’. More significant on this, the acceding member is required to accept the condition ‘to be guided by agreed parameters for good governance and good economic and corporate governance’.

There is a very interesting clause in paragraph 13 which seeks to bind an acceding State to the obligation to ‘clearly define a time-bound Programme of Action for implementing the Declaration on Democracy, Political, Economic, and Corporate Governance, including periodic reviews’. Prima facie, this particular Programme of Action could be interpreted to be different from the Programme of Action the result of the self-

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<sup>29</sup> . Guidelines for Countries to prepare for and participate in the African Peer Review Mechanism (APRM), [www.nepad.org/aprm](http://www.nepad.org/aprm)

assessment. Paragraph 13 refers to a Programme of Action on the Declaration and is required as the Base Document states ‘at the point of formally acceding to the peer review process’, and, therefore, before the State concerned has formally joined the Mechanism. However, it is not clear how this is being implemented in practice by the APR Secretariat and how the local coordinating body fits into it at all. More relevant to this work here is that at that same time, the acceding State should also bind itself to a Programme of Action (POA) stipulating a specific time-frame regarding the periodic reviews it will submit to. All the five reviewed countries have understood the called for specific time-frame referred to here to be three years. Except for what we have said above about the non-legally binding nature of the instruments of the APRM including the Base Document, the imperative nature of the language employed in the Base Document in fact betrays a certain sense of seriousness with the process.

So far, only one of the four types of reviews foreseen in the Base Document has been concluded. The Five countries that have just completed the reviews have not yet exhausted all the anticipated reviews based on the Base Document but have only completed one the base review ‘needed to be done within eighteen months of a country becoming a member of the APRM process’. For the reasons already alluded to, neither the five first countries complied with this review in terms of temporale jurisdiction nor of course the majority of the remaining twenty-one members. Within eighteen months of a country becoming a member would have meant completing the base review way back in 2004, at the very least, for the founding countries. There is provision for a periodic review every four years and an ‘ask for review’ that can be requested by a member country in addition to the mandated periodic review. Therefore, a state can volunteer to join the Mechanism and then volunteer to undergo the review in addition to undergoing the planned review. Finally but more importantly, participating Heads of State and Government on sensing signs of an impending political or economic crisis may in the spirit of helpfulness to the Government concerned institute a review of that member country provided there is sufficient cause for the action. Like the ‘ask for review’, this has not yet been resorted to. Overall, APRM’s most important principle is voluntarism. It is up to each AU Member State to decide whether to join the Mechanism or not. Though it is an AU concept, no state can be forced to join. Western countries have previously misread this particular clause to call upon the APRM to review Zimbabwe. Zimbabwe not yet having acceded to the APRM, the APRM has no jurisdiction to entertain a review on her as on the other 26 AU states still outside the mechanism.<sup>30</sup>

It is important to realise that paragraph 17 which deals with APRM process has made a kind of an ‘opt-out clause’ in a loose sense. To the extent it allows for recognising during the review that African countries are standing at ‘different levels of development’, it seemingly has authorised the application of different standards from country to country based on this principle. This is more or less the case when reading the outcome of the

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<sup>30</sup> . The Pan African Parliament (PAP) has also during its debate of the Mechanism raised strong views about the principle of voluntary membership to the APRM calling for compulsory membership to all AU states (interview with chairman of the Governance and Human Rights Committee, September 15, 2007, Pretoria, South Africa); See also, Third Meeting of the Co mmittee on Human Development and Civil Society, ECA, 4-6 May 2005, Addis Ababa, Ethipia.

reports of Algeria and particularly Rwanda seemingly standing on one side from those of Ghana, South Africa and Kenya. While the latter were clearly expected to acquit higher standards, the former were easily let off the hook due to their particular circumstances. Nevertheless, it should be noted that each country has an opportunity to explain the context of its governance status and context is very important in the APRM.

Finally, the stages of the peer review process are extravagant to the extreme. In their current shape, they encourage defaulting rather than compliance. Stage one is preparation of both Background and Issues papers involving desk research in which to scan all materials and issues relevant to the four thematic areas:

- Democracy and Political Governance;
- Economic Governance and Management;
- Corporate Governance; and
- Socio-economic Governance

Basically, this is the Secretariat's business. Usually, not much time is allocated to this most important phase. There is urgent need to revisit the whole issue of Background and Issues Paper stage. This author believes this particular stage to be too important to be limited to desk research outside the country concerned. Researchers and the Secretariat must visit the country concerned and conduct joint research including field experiences in that country and only after that draw the questionnaire for administering to that country. The questionnaire should be based on research and experiences from the ground and not be standard. It should aim at sampling the existing national programmes of actions, plans and activities together with daily experiences as far as this is possible. This could make the process credible and sensitive to real needs.

Stage two is the Country Review Mission. Led by the Panel member who is responsible for the country concerned kind of rapporteur, the Secretariat, experts, strategic partners and other prominent personalities with some connection to the country concerned will be assembled together for the visit. The visit is on the invitation of the host country communicated to the APRM by the national focal person. Normally, it is a group of about twenty people. The Base Document says of the visit that 'its priority order of business will be to carry out the widest range of consultations with the Government, officials, political parties, parliamentarians and representatives of civil society organisations (including the media, academia, trade unions, business, professional bodies)'.

After the visit comes stage three which is basically to write down the report. The teams meet to discuss the issues and draw some broad parameters. The Base Document says '...the report is prepared on the basis of briefing material prepared by the APRM Secretariat and the information provided in-country by official and unofficial sources during the wide-ranging consultations and interactions with stakeholders'.

The fourth stage is submission of the report to the participating Heads of State and Government which is done through the APRM Secretariat. This is the Peer Review conducted by Heads of State and Government. In practice, it is conducted in person by

Heads of State and Government of participating countries. There is need to review this particular aspect. First, if possible, the peer review should take place in the home country of the state concerned. While it would be expensive to fly Heads of State and Government to the country concerned for only one and half hours of the review, this is what will convince the population that the review and the APRM are real. A peer review in a distant country is not convincing to most people. Second, the peer review must open up to the citizens. Civil society should have access to the peer review and it must be open to the public. Heads of State need to understand that their people want to see them being peered or peering fellow Heads of State and it must not be done in secrecy and away from the country as it is at the moment. Imagine the impact if the peer review of Sudan, for instance, was to be conducted in the open in Sudan?

The fifth and final stage is the tabling of the Report after consideration by the APR Forum before sub-regional structures such as the Pan-African Parliament, the African Commission on Human and Peoples' Rights, the AU Peace and Security Council and the Economic, Social and Cultural Council (ECOSOCC) within the African Union. As indicated already, this has been done in respect of the PAP but not before the African Commission on Human and Peoples' Rights. This is a very important phase. It confirms collective ownership of the process by the African Union which authored the concept. Even those AU states that have not yet volunteered to accede to the Mechanism will through their officials in these bodies get to know the Mechanism and participate in its collective monitoring and implementation which could trigger interest in their own countries. Report tabling constitutes publication and therefore fulfils the sacred principles of transparency and accountability. In the case of the Ghana Report, this was not easy. Like the game of ping pong, Ghana Governing Council and the APR Panel 'short' the responsibility to publish the report to each other. The Base Document does not state clearly who should table the report to the prescribed bodies whether the Governing Council, participating State or APR Panel. The controversy delayed publication of Ghana's Report.

The five-stage process has often been criticised as too prolonged to be efficient. The stages have been criticised as behind the unsatisfactory progress where since the Mechanism started, only five countries have been reviewed. On closer look, however, it is not convincing argument that the delays experienced emanate solely from the five stages. What seems to be the case instead is that delays are caused by factors not often stated. For example, prior to stage one, there is the Support Mission. Experience has shown that there often is a long lapse of time between accession and the invitation from the participating State to the APR Panel to conduct the Support Mission. After this, an even longer lapse of time follows to the Country Review Mission stage. This is the stage where most participating States still are. While duration is regulated by the Base Document which states that 'the process per country should not be longer than six months commencing on the date of inception of stage one up to the date the report is submitted for the consideration of the Heads of State and Government', we have already observed that this simply never complied with.

In a way, we have already discussed the issue of leadership and management structure as provided for in the Base Document. The issue, however, is that appointments of the Panel of Eminent Persons and their tenure of office need to be reviewed. Eminent Persons should at the very least be subjected to the same rigorous standards provided for in the Base Document including transparency and the process made participatory of all segments of society. This is necessary for persons expected to exercise oversight of a process that prides itself of promoting the principles of an open society including democracy, transparency, accountability, etc. Heads of State and Government should yield their powers to select individuals to appoint to the Panel to their communities and society.

Paragraph 13 on management provides for ‘competent Secretariat that has both the technical capacity to undertake the analytical work that underpins the peer review process and also conforms to the principles of APRM.....’. In its early phase, the APRM was bedeviled by secretariat hiccups resulting in the dispensation of some of the members of staff and consultants. This to an extent delayed commencement of the process and could account for some of the delays in reviewing the first five countries. It was only with the coming into office of the current structure that serious work started. Still more, there is need to have adequate and competent Secretariat given the amount and type of work expected.

## **4.2 Guidelines for Participating Countries**

As indicated, the Guidelines<sup>31</sup> are important for the participating States. Paragraph 3 of the Guidelines: ‘elaborates on the Guidelines for countries to prepare for and to participate in the African Peer Review Mechanism (APRM)’.

The guidelines set out the principles of undertaking the review. Core guiding principles include vestment of the mechanism in both the participating heads of State and Government together with the APR Forum; Panel members to oversee the conduct of the APR process and ensure its integrity, etc. A core principle embedded in paragraph 12 of the guidelines foresees the APRM as a holistic process which is so flexible as to dovetail with other national programmes and processes. Among other things, it states ‘National ownership and leadership by the participating country are essential factors underpinning the effectiveness of such a process. This includes leadership in ensuring consistency with existing national efforts, like the Poverty Reduction Strategy Papers (PRSP) processes, other national poverty reduction strategies, Medium Term Expenditure Framework (MTEF), National Human Rights Action Plans, Millenium Development Goals (MDG) strategies, ongoing institutional reforms, and other relevant governance and socio-economic development strategies, programmes and projects....’.

This is an important paragraph. What it does is to harmonise the APRM with existing and ongoing programmes and not to displace them or view them as in competition with the APRM. Therefore, the existing Programmes of Action in these areas could be adapted

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<sup>31</sup> . NEPAD/APRM/Panel13/guidelines/11-2003/Doc-8

and adopted for the APRM if this will maximise efforts instead of treating them separately or as in competition. The APRM is primarily there to close gaps where these exist.

Also, the Guidelines have been set out to guide participating States during Country Missions; how to develop the self-assessment based on the questionnaire and indicators as well as how to develop a realistic Programme of Action incorporating synergies as can be identified from existing programmes; how to implement a Country Support Mission with all the various workshops and meetings to be arranged for the Mission and stakeholders from all sectors of society; guides in implementing the five stages of the APRM processes, etc. The Guidelines provide guidance both to participating States and the APR organs on how to prepare their respective reports such as to develop a balanced Self-Assessment, realistic Programme of Action and balanced Country Review Report which reflects both the best and negative practices and experiences. Based on what we have alluded to before, the Guidelines will need to be drastically changed to make the Mechanism more sensitive by tempering with the questionnaire; to enable the APR Secretariat and consultants to undertake visits during preparations of Background and Issues Paper to be a basis for the questionnaire, etc.

### **4.3 National Focal Point**

#### **Box 5**

The APR Forum endorsed the recommendation that a Focal Point be established in each participating country. The APRM National Focal Point should be at Ministerial level or a High-Level Official reporting directly to the Head of State or Government and with access to all national stakeholders (Communique of the First Summit of Participating Heads of State and Government in the African Peer Review Mechanism (APR Forum), Kigali, Rwanda, 13 February 2004)

The National Focal Point is a critical link in the APRM process. It is decisive to the success of the Mechanism. An inaccessible focal point means stakeholders cannot communicate. It is important the focal point enjoys the confidence of all stakeholders.

However, the concept has been challenged particularly by the political decision to station the national focal point too close to the Head of State or Government and therefore in the eyes of other social formations, in 'enemy territory'. Heads of State entertained the idea of a national focal point who was a politician and particularly one they had control through the power of appointment. Unfortunately, this has serious implications on the integrity, efficiency and effectiveness of the process. Executive Secretary of the UN Economic Commission for Africa was quoted to have observed that the structures of the APRM 'would work better and its credibility guaranteed if it were independent and not

attached to political pressures of government'.<sup>32</sup> More recently, the ECA chief observed that 'national focal points are critical therefore they must have deeper understanding and appreciation of the challenges facing the implementation of the APRM in the country'. He went on to say that knowledge, integrity and commitment of the national focal point will determine the progress and success of the national coordinating body.<sup>33</sup>

Though not settling for any particular model, it is clear from above that progress in national coordinating bodies would depend on the extent to which the focal point enjoys the respect of all stakeholders. But, the practice in most participating countries is instead of settling for such an individual that enjoys the respect of all, unfortunately most states decided to settle for a member of an incumbent government. It must be realised that in some African countries, the opposition and government cannot talk. Similarly, there is a permanent state of war between civil society and labour on one hand and government on the other. How can a Minister or senior government official in these circumstances approach labour or opposition politicians and vice versa? In a critical review of the APRM process in Rwanda, a respected NGO complained that the location of the national focal point in the Office of the President affected the objectivity of the process in Rwanda.<sup>34</sup> Appointing a Minister or civil servant as most participating countries have done creates the impression that APRM is government business which puts off non-governmental formations. In any case, appointing a cabinet Minister means there will be constant changes due to changes of personalities which does not augur well for effectiveness.

#### 4.4 Governing Councils

##### Box 6

The APR Forum also approved the recommendation of the APR Panel that participating countries immediately take steps to identify or establish broad-based and all-inclusive APRM National Coordinating Structures where they do not exist (First Summit of Participating Heads of State and Government in the African Peer Review Mechanism (APR Forum), Kigali, Rwanda 13 February 2004)

Prior to the participating country preparing the country's self-assessment report and Programme of Action (PoA), and immediately after the Support Mission, it must establish the national coordinating committee in the country. While the Base Document suggests the basic principles to govern how this body was to be constituted, the practice

<sup>32</sup> . Abdoulie Janneh,, Executive Secretary, UNECA, African Monitor, African Voices for Africa's Development, *Independence of APRM Needed for Good Governance in Africa*, Abuja, Nigeria, 29 October 2006

<sup>33</sup> . Ibid, APRM Peer Learning Workshop: Lessons Learned & Best Practices, Addis Ababa, February 20, 2007

<sup>34</sup> . Critical Review of the APRM Process in Rwanda, LDGL, Kigali, Rwanda, January 2007



has varied from country to country depending on a mix of factors. As indicated, Ghana established what it called 'the Governing Council'. The term was borrowed in Kenya and South Africa with some slight variation.<sup>35</sup> On the other hand, the Ghana model wasn't replicated in Rwanda either formally and substantively. Rwanda preferred to call its body the 'APRM National Commission' and to take a different route in providing its composition.

South Africa, for example has a total of fifteen members<sup>36</sup> in addition to reserves. Initially, South Africa's Governing Council was dominated by government.<sup>37</sup> Government appointed Cabinet ministers to sit on the Council - the first time this had happened since the exercise started in Ghana and Rwanda. Later, after some heated arguments from civil society, room was created for more civil society members to join the Council.

An important point but one that is hardly mentioned in discussions about the South African process is that along the way, South African Parliament decided to set up its own parallel APRM structure. At the National Consultations workshop in Cape Town, a member of South African Parliament who served as member of the Parliament-led APRM Committee disclosed that Parliament was set to go ahead with its process and would not link it to that of government. An attempt was made to explain that Parliament cannot produce its own report separate from that of government but the representative and other MPs stuck to their ground saying their decision was founded in the South African Constitution which embedded the principle of separation of powers and according to which the executive could not represent the legislature as this would violate this sacred principle. Later, however, Parliament was persuaded to rescind its decision and feed its report to that of the government.

Rwanda soon after signing the Memorandum of Understanding with the continental APRM, government launched the first stakeholders' workshop in March 2004 (in local Kinyarwanda called 'Nyandungu 1') which was attended by 200 people. From this, a group of twenty was chosen to sensitize stakeholders on the APRM process and to formally launch thematic groups that had worked on the questionnaire. The twenty-member group was made up of volunteers drawn from government, civil society and private sector. This was later converted into a Technical Review Team and extended some incentives. In May 2004, Nyandungu 11 was convened to validate the work of Nyandungu 1 and to integrate the comments from the general public. At the time, government had proposed to replace this model with a fifty-member APRM National

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<sup>35</sup> . The nomenclature though not important is nevertheless already getting diverse. In Kenya, it is known as National African Peer Review Mechanism National Governing Council (NGC) while in South Africa it is known as South Africa APRM National Governing Council (NGC). Unlike the Ghanaian and the South Africa, Kenya's Governing Council underwent a tumultuous period leading to prolonged delays to submit the Country Self-Assessment Report to the continental APRM. At the height of these controversies, the Council had to change chairpersons.

<sup>36</sup> . South Africa Governing Council, [www.nepad.org.za](http://www.nepad.org.za)

<sup>37</sup> . A member of civil society called the author a week after the composition of the Governing Council was unveiled to find out whether based on my experience in the APRM as consultant it was in order for South Africa to appoint members to the Governing Council and second to appoint mostly government ministers?

Commission but this too was criticised on the ground that it had too many public officials. Second, APRM called on authorities to reconsider the method of selecting membership. Government's response to the criticism that there were too many public officials on the Commission was that it did not have a lot of civil society members as most of them perished during genocide.

Moreover, the issue of location of the Rwanda APRM National Commission dogged the Mechanism. In Ghana, the Governing Council was located at inception in the Ministry of Regional Cooperation and NEPAD but it moved out to rent private premises just a few days after in order to preserve its independence and therefore integrity. Rwanda's Commission is still located in the Office of the President. This raised serious questions about the independence of the Commission given that independence was one of the prerequisites the body had to comply with. In Ghana's experience, yet again, it was explained that in keeping with this independence, Governing Council members were not sworn-in by the President but 'inaugurated'.<sup>38</sup> This practice was followed in Kenya.

Save for Kenya and South Africa, the issue of legal status affected the APRM local bodies. Appointments to the Governing Council in Ghana and the Rwandan National Commission failed to comply with the needs of legal status. In Kenya and South Africa, though the NGC's were given legal status through a gazette notice by the Minister responsible. In Rwanda and Ghana, appointments were validated either by presidential decree or administrative instruction. Asked why Ghana government did not enact a law to establish the Council, and instead left it purely to the whims of the executive, the response from the Council members was that if established by means of statutes, it would go against the grain of the idea of the APRM that the Council was not to be a permanent body but should cease to exist after the peer review. However, in all these countries, none of the national bodies established for this purpose have been dissolved following completion of the base review. In South Africa, all the structures of the Governing Council that were established in the various provinces were retained after the peer review. Similarly, Ghana has not only kept the Governing Council after the base review but is currently busy establishing provincial councils.

While it may be no problem in South Africa for senior cabinet ministers to sit as members of the Governing Council, it is most definitely bad precedent for countries outside South Africa. The message the ministers' presence on the Council send out there is that the self-assessment was not State but government process. This is the same with Rwanda, though it is less influential. Smaller countries without the effective safeguards against abuse of power that South Africa has are bound to learn from this and leave the process to senior government officials. At the same time, revised South African Governing Council adequately catered for sectors not included in the Ghana model including the private sector.

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<sup>38</sup> . This question was raised specifically by the author during the Country Visit and got this explanation from the member of the Council who previously under President John Rowlings' administration served as chair of the Ghana Bar and was also arrested and detained by the administration then for his work defending his clients whom government held in contempt.

## 5. Methodology

President Paul Kagame and Rwanda APRM Commission officials criticised the APRM methodology not only but particularly on the approach taken against that country's unique solutions especially Gacaca, and for the Country Review Mission only staying in the country for ten days. President Thabo Mbeki criticised the APRM equally on methodology particularly the way it commented and concluded on a reviewed country's issues, programmes and activities. International stakeholders including the UNDP have criticised the protracted way in which the APRM process is conducted.

Perhaps the most difficult area in the entire APRM process is the methodology. The above and previous sections discussed this already. Nevertheless, the method of undertaking the APRM process right from accession through to the peer review by the Heads of State and Government is very complex. Although it is also difficult at continental level, it is particularly complicated at the level of the participating State. This is exacerbated by the huge costs involved for a country to undertake the consultations that it is bound to by the APRM law to undertake country-wide. In fact, this (country-wide consultations) is one of the main reasons for delays between Country-Support Missions and Country Review Mission. Rwanda, but also Kenya openly complained as will be seen elsewhere in this paper that the process was too expensive for them. Despite resorting to the use of volunteers to administer the questionnaire and disseminate it to the general public and assistance from donors, poor Rwanda nevertheless was faced with a huge expense which the exercise cost its treasury.

The APRM is governed by long-drawn out procedures, rules and processes. The questionnaire has a total of over 80 pages which translates to 29 questions on the democracy and political governance cluster alone. Most of these are loaded, related and interrelated questions. Despite the lengthy questions, however, the questionnaire has left out some important themes to the African situation. For example, the whole issue of humanitarian law has been skipped in a continent where civilians including women and children are constant targets of conflict and war. The principle of standardization implicit beneath the questionnaire urgently need revisiting to accommodate specific situations in ways that do not depart from established common objectives. Ghana, Rwanda and South Africa easily found the large questionnaire inadequate to address their particular situations and they therefore had no choice but to modify it. Most of the questions, especially those on democracy and political governance, are repetitive. As a result, most self-assessment reports were caught up in this repetitive cycle. Several aspects of the reports repeated what is already there.

Methodology will not only need fine tuning and perhaps it must be replaced completely with a totally new method to address concerns raised above. It is through change of methodology that efficiency can be guaranteed. The first point is that whatever method chosen must be sensitive to the needs and priorities of the participating country. It must avoid the standard approach which glosses over the issues in the name of universality. While universality is important to avoid disproportionalities in governance benchmarks, account should be taken of real challenges specific to each country. Indeed the Algiers

meeting (November 2007) agreed to domestication of the questionnaire, implying that local context, languages, and limitations will affect how the questionnaire is administered.

## **6. Experiences, lessons and best practices<sup>39</sup>**

We have already noted that of the twenty-six countries that have acceded to the APRM, five have completed the review viz Ghana, Rwanda, Kenya, South Africa and Algeria. Besides Algeria, reports of the other four are obtainable from the APRM website.<sup>40</sup>

Ghana and Rwanda volunteered to be the guinea-pigs by going through the process first. As Prof. Asante put it, the exercise was venturing into uncharted waters.<sup>41</sup> Most of the rules had to be defined with the development of the process.

While Rwanda and Ghana indicated more or less at the same time to be ready for the peer review, the latter was ultimately reviewed first while Rwanda's review had to be postponed. Preparation of the Background and Issues papers for both the two countries took place at the same time. Similarly, Country Team Visits were organised at the same time with only one week difference between them. Ghana was the first to be visited. Given Ghana's historical credentials as the first country in sub-Saharan Africa to gain independence from colonialism, it was fitting that Ghana became the first to test the waters. But the reason for Rwanda not to be reviewed at the same time as its counterpart Ghana was because of the absence of Rwanda President Paul Kagame from the Forum. Head of State and Government Chairperson President Obasanjo of Nigeria ruled that only a Head of State can present the Report on his country. This is probably due to conceptual differences on the idea of the APRM. President Obasanjo saw the APRM as a peer process for experience sharing by Africa's Heads of State and Government and not anyone on their behalf. The classical view is that it can be for States and not necessarily individual office-holders. After Rwanda, came Kenya but not immediately. With a much freer and noisy press and civil society compared to Rwanda, the process in Kenya encountered a lot of hiccups.<sup>42</sup> South Africa and Algeria were peer reviewed by the APRM Forum on the same day on the outskirts of the Accra Summit in Ghana of the AU.<sup>43</sup>

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<sup>39</sup> . Dr. Graca Machel, member of the APR Panel described the APRM as a 'learning experience'. She made the observation when addressing civil society members during her Support Mission visit to Lusaka, Zambia. The Post, Wednesday September 12, 2007, [www.postzambia.com](http://www.postzambia.com)

<sup>40</sup> . Note 32

<sup>41</sup> . SARP Seminar, note 17

<sup>42</sup> . In response to the Kenya Daily Mail article that appeared on Friday, 22 July 2005 carrying a number of allegations about the APRM process in Kenya and on the continent as a whole, the Secretariat in Midrand was forced to release a statement to correct the impression created on the issues reported. The APRM statement corrected the impression that the Mauritius report had been rejected due to government interference while that of Rwanda had been accepted and that the latter was likely to receive billions of shillings for development. Both these two assertions were rejected (Dr. Bernard Kouassi, Executive Director APRM Secretariat, Press Statement on Recent Developments in the APRM in Kenya and the Continental Process, Midrand, 30th July 2005).

<sup>43</sup> . AU Summit in June 2007, Accra, Ghana; [www.au.org.au](http://www.au.org.au)

From initial comments, there is no doubt the peer review was historical success. President Bouteflika of Algeria has been quoted to have expressed his full satisfaction with the experience-sharing he went through during the peer review. Similarly, Presidents' John Kufour and Paul Kagame of Ghana and Rwanda respectively expressed their full satisfaction. Addressing the Sixth Africa Governance Forum in Kigali in May 2006, President Kagame explained that what he and his colleagues had gone through was a major turning point in Africa's history. In the past, he said, it was not possible for one Head of State to discuss issues under the jurisdiction of another Head of State.<sup>44</sup> President Kufour, on the other hand, was so satisfied he announced to his peers that he intended to turn the independent Ghana APRM Governing Council into a permanent body so that it could continue monitoring the implementation of the programme of action.<sup>45</sup>

Of course there would be need to determine the views of the people in the reviewed countries regarding how they feel about their country having gone through the review. There are mixed signals about the reviews as seen above in the case of critic against Rwanda,<sup>46</sup> for example, and others. Still on Rwanda, Eduardo Jordaan has qualifiedly described the Rwanda process 'inadequately self-critical'.<sup>47</sup> However, it cannot be denied that the exercises enabled people in those countries to dialogue on national issues. Just like Rwanda, South Africa utilised its unique hybrid systems through Lekhotlas, Indabas and Imbizo's or popular assemblies in various parts of the country to get people to air their views and share experiences on how they were governed using the APRM process. Of course as distinct entities, there would be some experiences in a country which would not be experienced in the next country but generally, there was experience sharing. As expected, each of the reviewed countries had aspects to its credit and as well as negative experiences or practices. Below is a summary of some of the positive and negative practices, lessons and experiences garnered from having gone through the APRM process.

### **a) Ghana<sup>48</sup>**

According to Adotey Bing-Pappoe,<sup>49</sup> the APRM process in Ghana began with a series of sensitization seminars organised by the Governing Council. Bing-Pappoe claimed that generally, these seminars benefited an estimated 50, 000 people even though only 1, 200 actually participated or attended the seminars which represents only 0.5% of the entire Ghana adult population. This small percentage therefore means most adults in Ghana remain unaware of the APRM.<sup>50</sup> Even more worrying is the data Bing Pappoe cited from

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<sup>44</sup> . [www.NEPAD.gov.rw](http://www.NEPAD.gov.rw)

<sup>45</sup> . APRM Update, Ghana Undergoes Peer Review, ECA, January 27, 2006.

<sup>46</sup> . Note

<sup>47</sup> . Eduardo Jordaan, Inadequately Self-Critical: Rwanda's Self-Assessment for the African Peer Review Mechanism, African Affairs, 10 April 2006.

<sup>48</sup> . [www.nepad.org/2005/files/aprm/APRMGhareport.php](http://www.nepad.org/2005/files/aprm/APRMGhareport.php)

<sup>49</sup> . Adotey Bing-Pappoe, The Ghana APRM Process. A Case study paper prepared for the 2007 Bergen Seminar: Governance Assessments & the Paris Declaration: Towards Inclusive Participation & National Ownership

<sup>50</sup> . Ibid, page 9

the Secretariat of the Ghana Governing Council<sup>51</sup> which showed that over half of those that attended were government officers.

Ghana Governing Council held five national seminars throughout the country. Three of these are particularly important – the one held at Akosombo in May 2004 attended by 200 people; the national self-assessment and National Programme of Action deliberations meeting in February 2005 attended by 50 people; and the national validation meeting held in April 2005. These activities provided the raw-materials which built into the country's self-assessment and Programme of Action. In turn, this is what fed into the Country Review Report of Ghana that President John Kufour presented before his colleagues in the APR Forum in Khartoum, Sudan for the Peer Review.

In Ghana, some of the best practices identified include a robust and open public life characterised by an equally robust competition for political power. This is against the background of fractious, at times, explosive elections the country has had. Others include.<sup>52</sup>

- Government's decision to grant the APRM Governing Council relative autonomy which ensured it independence, professionalism and credibility;
- Based on this, the conduct of self-assessment was independent, nonpartisan and professional which is considered a best practice to be adapted to other participating countries, and indeed was adapted in Kenya and to an extent South Africa;
- Decision by the Governing Council to yield report-making to credible and independent Research Institutions for the four thematic areas according to their competence, again a practice that was adapted in Kenya and South Africa;
- Mobilisation of stakeholders including civil society organisations (CSO), private sector, international community, members of parliament, chiefs, etc., and ensuring their participation
- Consolidation and strengthening of liberal democratic principles and values in the country;
- Democratic and orderly transfer of power from one party to another and from one President to another which comes against the background several years of military rule;
- Adoption of comprehensive Economic Recovery Programme in 1983 leading in 1990s to growth rate of gross domestic product of 4.3%, decline in inflation from 78% in the 1980s to 18% in the 1990s
- Creation of Ministry of Private Development (MPSD) to spearhead realisation of competitive private sector;
- Adoption in February 2003 of Ghana Poverty Reduction Strategy (GPRS) 2003-2005

However, as in every objective report, there were negative aspects or challenges that were identified alongside positive ones including:

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<sup>51</sup> . [www.naprmgc.org](http://www.naprmgc.org)

<sup>52</sup> . [www.naprmgc.org.gn](http://www.naprmgc.org.gn); [www.uneca.org/aprm/Story\\_101806.asp](http://www.uneca.org/aprm/Story_101806.asp)

- Overcoming delays in justice delivery in the justice sector;
- How to prevent political manipulation of the justice system;
- Powers between the three arms of government executive, legislature and judiciary that in practice are not separate;
- Slow policy and process of decentralisation and politicisation of the decentralisation process such as appointment of the District Chief Executive (DCE) by the President;
- Unaccountability of District Assemblies to the people;
- Lack of awareness of rights by citizens;
- Corruption;
- Poor delivery of public resources and services;
- Lack of effective mechanisms to allow all groups in the country to assert their rights, particularly women, children and youth;
- Inadequate resources, notably human financial and logistic capacity of the Electoral Commission;
- The unsustainability of the Electoral Commission's budget as it is totally donor dependent;
- Lack of internal democracy within political parties and the potential long-term effect this may have in weakening democracy in the country;
- Low representation of women in politics generally and in particular in Parliament;
- Heavy dependence on aid for development;
- Low levels of awareness of corporate governance in general and corporate social responsibility in particular;
- Persistent lack of clarity in the respective roles of public and private sectors
- Lack of progress in gender mainstreaming as a result of cultural and other impediments

It is interesting that Ghana already cites the APRM Country Review Report and Programme of Action in its other reports to development partners.<sup>53</sup> In this report to the UN Economic and Social Council (ECOSOC) annual ministerial review of the country's economic governance programme at which the central theme was eradication of poverty and hunger, Ghana refers to the APRM as a monitoring and control mechanism of the NEPAD.

#### **b) Rwanda<sup>54</sup>**

Some of the good practices identified by the Country Review Report in Rwanda include:

- Ratification of most of the international human rights instruments. Those not ratified were explained owing to lack of resources and insufficient capacity

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<sup>53</sup> . Ghana: Support to NEPAD (period June 2002-June 2003). Ghana Country Review Report. Strengthening efforts for the Eradication of Poverty & Hunger. The Annual Ministerial Review. Ghana's Country Report at the 2007 Ecosoc Annual Ministerial Review (AMR) in Geneva, Switzerland, July 2007. APRM is cited on pages 22-24

<sup>54</sup> . [www.nepad.gov.rw](http://www.nepad.gov.rw)

- Establishment of novel institutions such as the Unity and Reconciliation Commission and the Gacaca courts with the view to stemming tensions between ethnic, religious and other diversities in society
- Adoption of a constitution through referendum which provided a forum for wide public consultation. The constitution establishes an independent judiciary, a Human Rights Commission, institution of Ombudsman, etc
- Implementation of decentralisation policy meant to put in place a participatory bottom-up mechanism of harnessing peoples' views. Decentralisation continues to cede power to local communities
- Providing compulsory free education and the recognition in the 2003 Constitution of the rights of all citizens to health care
- Facilitation of equal access to justice through the restructuring of the justice sector as seen in the establishment of Gacaca courts as mechanisms for promoting community dialogue, reconciliation and national unity

However, the same Report also noted some bad practices which include:<sup>55</sup>

- Concern about the slow pace of opening up of political space for competition for power. The voting system used in local communities it noted did not assure compliance with generally agreed principles of free, genuine and secret election.
- Though decentralisation is being implemented, real fiscal power has not yet been ceded to local authorities
- Generally, freedom of expression is in practice not yet guaranteed as in law
- Unsustainability of institutions and mechanisms established in a bid to ensure access to justice
- Introduction of the Superior Council of the Judiciary and the non-availability of the Judicial Service Commission which has compromised the independence of the judiciary

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<sup>55</sup> . Other Rwanda experiences include: (a) APRM was an opportunity to demonstrate how the country had come out of genocide and therefore exhibited the good (change) and the bad (genocide); (b) process was immense learning opportunity for the country, institutions and individuals; (c) media played an important role in ensuring the public stayed ahead of events; (d) the participatory nature of the process requiring all segments of society including government, civil society, private sector, media and private citizens demonstrated that people feel they own the process; (e) consultative process like the APRM required huge outlay of resources – human, material, financial; (f) process (APRM) called for adequate funding and other resources to guarantee successful implementation; (g) it led to linkage between the APRM objectives and domestic development agendas i.e. to locate and explain the APRM within the context of existing policies and programmes e.g. MDGs, Vision 2020, PRSP, National Investment Strategy, etc; (h) lack of flexibility to encapsulate domestic innovations evident especially on the APRM Questionnaire which is only designed to give effect to internationally reknowned standards and therefore not flexible to capture local situations on governance problems solving initiatives e.g. Gacaca; (i) constraints of time – APRM Country Review Team only had ten days in the country which are definitely not enough; (j) it enhanced experience sharing among APRM participating countries and therefore could enhance spirit of community in NEPAD in general and APRM in particular; (k) Questionnaire too repetitive and too long - eighty (80) pages; (l) language of Questionnaire inaccessible to local communities; (m) APRM promotes nascent good governance and adds value to good governance as it provides unique opportunity for the general public to participate in governance; (n) civil society had opportunity to engage directly with the public sector in evaluating performance in governance matters, etc.



## c) Kenya<sup>56</sup>

On the official Kenya Governing Council website have been posted a number of issues extracted from the self-assessment and Country Review Report. These have been divided into strengths, challenges, key issues and some best practices. Towards the end is Kenya's response to the Country Review Report.

Some of the Strengths, Key Issues and Best Practices include the following:

### Box 7

--- A well-developed human resource base that is engaged in development activities, highly motivated and outspoken on public affairs;

--- A vibrant and diverse civil society/ including religious bodies, NGOs and media;

--- Numerous credible and well-renowned institutions including the University of Nairobi, Business and research associations and the Nairobi Stock Exchange;

--- A political environment that allows for open political debate;

--- A resilient economy that is less dependant on donors than in many African countries;

--- An established decentralised funding mechanism for local development;

--- Hospitality towards refugees and migrants that has manifested itself for many decades;

--- A relatively stable country;

--- The vibrancy of the media both print and electronic;

--- A vibrant agricultural export sector especially for horticulture; and the

--- Adoption and ratification of numerous codes of corporate governance and socio-economic development

There is a strikingly similar number of challenges to the strengths. These include:

--- An inability to address the colonial legacy, and the need to set a political agenda for real and strong national unity;

--- Historical imbalance in the channelling of resources and development programmes to certain regions in Kenya, which has perpetuated regional and ethnic inequalities;

--- The delay in promulgating a new constitution in spite of the Boma and being the product of the most extensive constitutional consultations in Africa's history;

--- The absence of broad-based and inclusive political parties, cutting across the racial and ethnic divides and anchored on a truly national agenda;

--- The lack of confidence and trust in public institutions coupled with pervasive corruption despite the sustained legal and institutional frameworks instituted to combat it;

--- The high incidence of poverty and pervasive unemployment especially for youth;

--- The under-representation of women to key positions of leadership at all tiers of government and the private sector;

--- The lack of efficient public sector service delivery and enforcement mechanisms as

<sup>56</sup> . [www.nepad.org/2005/files/aprm/APRMK](http://www.nepad.org/2005/files/aprm/APRMK); [www.aprmkenya.org/about.php](http://www.aprmkenya.org/about.php)

well as the weak implementation of of policies and programmes;  
--- The ineffectiveness of the Parliamentary Oversight Committees  
--- The limited access to finance for small business; and the  
--- Low probability of meeting MDGs goals with the exception of universal primary education and fall in HIV/AIDS rates

Key Issues:

--- Managing diversity in nation building;  
--- Constitutional reform and consensus building;  
--- Political parties and national agenda;  
--- Corruption;  
--- Implementation gaps;  
--- Effectiveness of Parliament  
--- Lack of confidence and trust in public institutions;  
--- Land ownership and reform;  
--- Under-representation of women;  
--- Enhancing the investigative capacity of the Judiciary; and  
--- Transformative leadership

Best practices:

--- Kenya's role in pacifying her neighbours and resolving various conflicts;  
--- Political and civil rights are exercised with a considerable degree of freedom;  
--- Production and exports of horticultural rights;  
--- Domestic resource mobilisation;  
--- The recent initial public offer of KenGen, the state power company;  
--- Promotion of decentralisation with the devolution of several funds to local authorities;  
--- A very commendable free and universal primary education policy;and  
--- Reduction of the prevalence rate of HIV/AIDS from 13 percent to 7 percent between 1999 and 2004

But, the Country Review Report on Kenya identified both good and practices just like in other reports. Some of the good practices identified to the credit of Kenya include:

- Acceding to and ratifying several regional and global international human rights instruments;
- Existence of greater degree of human rights and political freedom in the country;
- Adoption by government of the economic recovery strategy programme;
- Reduced dependence on foreign aid coupled with good domestic resource mobilisation; noticeable progress in carrying out key reforms in economic governance;
- Introduction of special courts such as commercial courts which have expedited delivery of justice, etc.

On the other hand, Kenya is confronted with several challenges including the following:

- The ugly spectre of ethno-regionalism;
- Failure to domesticate international human rights instruments;
- Failure to enact the Family and Domestic Violence Bill which has been pending since 2002;
- Lack of an equitable framework providing access to land;
- Prolonged delays in adoption of instruments of good government including the Political Parties Bill and the HIV/AIDS Prevention and Control Bill seen as critical to the country's democracy, security, peace and human dignity;
- Lack of effective parliamentary oversight of the annual budgets as envisaged in the Constitution;
- Absence, in spite of efforts to that effect, of strong and effective anti-corruption policies, anti-terrorism and money-laundering laws;
- Huge government wage bill relative to GDP, etc.

Besides the good practices and challenges identified the Country Review Report also identified a number of overarching or cross-cutting issues including:

- Managing diversity in nation building;
- Implementation gaps;
- Poverty and wealth distribution;
- Land;
- Corruption;
- The Constitution;
- Gender Inequality;
- Youth Unemployment; and
- Transformative leadership

#### **d) South Africa<sup>57</sup>**

As indicated elsewhere in this report, South Africa organised several consultative meetings at national, provincial and other levels. There was a vibrant debate in the public media often differences of approach between the national focal point and civil society representatives. The debate really tried to get down to the ground. It was definitely not limited to the elite. For example, footballs and volleyballs marked 'APRM' were released to communities across the country as part of promotion campaigns. This guaranteed a very good objective report. Consequently, the South African Country Review Report identified a total of eighteen best practices.<sup>58</sup>

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<sup>57</sup> . [www.aprm.org.za](http://www.aprm.org.za)

<sup>58</sup> . See: Document Park for the Public Management Conversation held in George, 8-10 December 2005 which include (a) The state of corporate governance in South African state-owned entities (b) Issues in South Africa's APRM Research Strategy (c) South Africa's first APRM Consultative Workshop, Gallager Estate, Midrand 28-29 September 2005 (d) Selection of News Articles – APRM, 'Parliament should occupy APRM council seats', Johannesburg, South Africa 07 November 2005 (e) African Peer Review

- co-operative governance;
- popular participatory governance practices (e.g. imbizos or peoples' assembly);
- highly consultative budget formulation process;
- self-reliance in development funding;
- provision of basic needs and socio-economic rights;
- successful promotion of gender equality in the public sphere;

Innovations identified in the process including:

- shortening of the questionnaire and its translation in other languages;
- inviting research institutions to participate as partners;
- involvement of civil society through the South African Commission; Social and Cultural Council (ECOSOC) chapter;
- the establishment of Provincial Governing Councils; and
- the role of community development workers in enhancing popular participation in the APRM process

Besides the innovations and distinctive features, some negative aspects and areas of concern were pointed out too. Among these is the persisting racial divide and continued polarisation more than a decade after freedom. The Country Review Report urged more decisive action on this. Also, the high crime rate was fingered as an indictment against the country's democracy reversing some of the gains achieved. While it was observed that South Africa had made enormous gains in the upliftment of women in public life, it nevertheless was a source of concern that in private life, and especially in traditional or customary society, women remained at the back without status. Even more than this, the issue of poverty was given special mention. In spite of South Africa's relatively growing economy, the Country Review Report noted how little this had translated into improved quality of life of the people.

## **e) Algeria**

On the other hand, distinctive features of Algeria's report include:

- Review Report is appreciative of progress accomplished;
- Review Report exposes the challenges and problems encountered in the modernization of the state and society;

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Mechanism, Annexure B. Summary APRM Questionnaires, Section One: Democracy and Good Political Governance (f) Discussion Paper Prepared for Phase One of the South African APRM: Democracy and Political Governance, by Dr. Chris Landsberg, Centre for Policy Studies, South Africa, November 2005 (g) African Peer Review Mechanism (APRM), Progress Report, 02 December 2005, Period Ending 02 December 2005 (h) Update on South Africa's APRM Process, 11 November 2005 (i) Corporate Governance. A Discussion Paper to assist with the preparation of South African Peer Review Mechanism (APRM) Self Assessment Report, etc.

- Review Report noted that the principle challenge is the consolidation of peace that has been obtained after a long and difficult period of instability and insecurity;
- Review Report took note of progress accomplished in the emancipation of women and the importance attached to the place and role of women in national development

## **7. Funding: Post-Review Challenges**

An important challenge to the APRM process is inadequate financial, human and institutional capacities needed to implement effectively and efficiently the National Programme of Action. This, and the difficulties of harmonising the APRM generated Plan of Action with the existing National Programmes, plans, processes, clearly threaten the effective rooting of the Mechanism.

As to the funding of the APRM, it is to its credit that the Mechanism has managed to mobilise participating countries to substantially fund its operations. Sixty percent of the Mechanism is from voluntary contributions by African member States.<sup>59</sup> This is very important especially as regards ownership that participating African States have taken the lead in funding the APRM. For example, as at 31st December 2006, the total financial contributions sourced from Member States stood at US\$ 8.8 million, representing 62 percent of the total contributions since the founding of the APRM.

This is an innovation most African institutions stand to benefit from as an experience worth replicating. Funding is the main headache in other African institutions. For example, at the African Commission on Human and Peoples' Rights in existence since the Charter's coming into force in 1986, inadequate resources have often paralyzed effective operation of the Commission resulting in some cases in cancellations of meetings. The Commission is only now - more than twenty years following its establishment - thinking of establishing a trust fund.

The second source of funding of course has come from bilateral and multilateral development partners which have contributed the balance. These development partners include the Governments of Canada, United Kingdom, Spain and the United Nations Development Programme (UNDP). Third, the African Development Bank (ADB), UN's Economic Commission for Africa (ECA) and again, the UNDP, in APRM popularly known as 'strategic partners' have been funding the APRM Support and Review Missions.

The main challenge as to the APRM funding is sustainability. It is good that participating countries and partners have responded resulting in an efficient system of the APRM. However, there is no guarantee that participating countries will continue to render their contributions to sustain the trust account. The concept of voluntary contributions is itself problematic. For example, instead of assessed contributions, the Special Court of Sierra Leone survives on the basis of voluntary contributions which has often driven the Court

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<sup>59</sup> . See the two annexes below

to a 'shoe-string budget'. It is simply difficult for some countries to feel the moral duty to volunteer to make a payment. The result is that only the big countries pick up the bill which also means based on this they have disproportionate power to run the Court. Even court ushers and note-takers for the Court have had to come all the way from the western countries contributing the most of the Court's funds!

As the Mechanism stands now, that 60% voluntary contribution from Africa is in fact from Nigeria and South Africa. Given that the APRM as explained elsewhere in this paper is not binding on States but is based on Heads of State and Government, it is not difficult to predict a crisis in the organisation's funding with the changes of Heads of State. Donors, on the other hand, though forthcoming, can also not be relied upon. The report of the UN General Assembly on NEPAD which we cite in the paper clearly illustrates that donors often do not meet their pledges. This leaves only one possibility of sustainable funding i.e. use of local resources. The challenge is how to demonstrably develop the APRM as a country and not government Mechanism by instilling a sense in all stakeholders that they genuinely have ownership of the Mechanism so that they feel the duty and desire to fund it. Rwanda's approach in this case is best practice. Instead of coming with a huge budget for the PoA, it is advisable to come up with a modest cloth such as US\$ 95 million which in three years can be raised locally or at least most it.

## **8. Role of private sector**

### **Box 8**

The Governing Council of the National Peer Review Mechanism (NAPRM) has developed a Monitor and Evaluation (M&E) framework to monitor progress of implementation by all stakeholders of issues of specific interests to the private sector including promotion of an enabling environment, effective regulatory framework for economic activities and good corporate citizenship with regards to human rights, property and adoption of codes of good business.<sup>60</sup>

The role of private sector either in the operational phase of the APRM or in its post-review phase is generally invisible. Private capital both local and foreign are responding too slowly to the APRM and to the post-review process. In Ghana, private sector did not even participate as members on the Governing Council. There was no one representing business on the Council. Similarly, Rwanda's National Commission did not explicitly have this sector on the Commission. On the contrary, Kenya and South Africa brought the private sector on board. The trilateral membership of the Kenya National Governing Council included private capital. Similarly, South Africa business is represented on the Governing Council and it continues to sit on the Council during the post-review phase.<sup>61</sup>

<sup>60</sup> . Rev. Prof. S.K. Adjepong, Chairman, NAPRM;  
[www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php](http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php)

<sup>61</sup> . The author met the representatives of business South Africa during the post-review workshop organised for stakeholders by the South African government on September 10, 2007 at the Reserve bank in Pretoria.

Nevertheless, in spite of the positive and proactive efforts by Kenya and South African models to bring on board the private sector, it is quite clear that unlike civil society, a lot needs to be done in the reviewed countries to develop the environment necessary to stimulate interest among the private sector to get involved in the APRM.

Research has determined that the private sector in Ghana has had no express role in shaping the post-review phase.<sup>62</sup> In other words, the post-review phase is being developed without a definitive role by private sector. In South Africa and Kenya where the sector is involved at national co-ordinating body, on the ground, the sector generally operates notwithstanding the APRM. Investment profiles have not yet begun to articulate the APRM specifically among factors for decisions whether or not to invest in a particular country or region. For example, it has just been reported that China's ICBC bank has bought twenty percent of South Africa's Standard Bank the biggest such deal by a foreign company in a South African company.<sup>63</sup> But there is nothing to indicate that the investment was motivated by South Africa's participation in or successful completion of the review process. There is a lot to do in sensitizing the private sector to embrace the APRM and to participate more effectively in searching means and ways to implement the Programme of Action. South Africa and Kenya are models worth replicating in other post-review countries.

## **9. Role of the international community including the United Nations**

The United Nations (UN), more specifically UN agencies, have been supportive of the New Partnership for Africa's Development, and by extension the APRM. The UN's highest policy-making body itself – the General Assembly - has endorsed the NEPAD and APRM processes since their inception. In 2002, for example, the UN, based on its resolution 57/7 of 4 November of that year, tendered a request to the Secretary General 'to submit the first consolidated report on the implementation of this resolution at its fifty-eighth session which was the following year. Simultaneously, it urged the international community and the United Nations system to organise support for African countries in accordance with the principles, objectives and priorities of the New Partnership for Africa's Development'. This led to the 2003 report<sup>64</sup> which highlighted actions taken by African states towards the implementation of the Partnership as well as support rendered in this connection by the international community including United Nations' system, the private sector and the civil society. In paragraph 8 of this report, which explicitly references governance, peace and security, the General Assembly gave express recognition and acknowledgement to the establishment of the APRM:

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<sup>62</sup> . Email from Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative, Africa Office, dated 17 September 2007

<sup>63</sup> . South Africa: Business Day, 25 October 2007

<sup>64</sup> . Report of the Secretary General. 'The New Partnership for Africa's Development: first consolidated report on progress in implementation and international support', Fifty-eighth session, 7 August 2003, A/58/254

## Box 9

The African Peer Review Mechanism has been established, and sixteen countries had acceded to the Mechanism as of July 2003. It is expected that reviews of up to four countries will begin before the end of 2003. The Mechanism is fundamental to the implementation of NEPAD priorities of political, economic and corporate governance, a central element in strengthening Africa's ownership of NEPAD and a means of attracting support from development partners. It is a mutually agreed instrument voluntarily acceded to by member States of the African Union, as an African self-monitoring, peer-review and peer-learning mechanism. Countries wishing to join the Mechanism are required to subscribe to the Declaration on Democracy, Political, Economic and Corporate Governance, sign the Memorandum of Understanding on the African Peer Review Mechanism and deposit the instrument with the NEPAD secretariat

The report contains at least two salient features. In the first place was 'Africa's ownership and leadership of the Partnership' which it says represents 'an important and welcome reassertion of the principle of responsibility for its development'. Second is the international community's support which was described as 'an important expression of international solidarity and partnership'.<sup>65</sup> Therefore, support by the United Nations' system to both the NEPAD and the APRM is based on these two extremely important principles. If adhered to, these principles should guarantee integrity of the two processes.

The private sector has also responded positively to the NEPAD initiative. For example, besides what else they may be doing in the respective participating countries, the sector has formed 'the NEPAD Business Group as a vehicle to promote cooperation between NEPAD and the private companies that support NEPAD'.<sup>66</sup> In West Africa, the African Business Round Table, jointly with UNIDO, organised the NEPAD-ECOWAS Business Forum in Abuja, Nigeria in March 2003.<sup>67</sup> The matter of promoting NEPAD was also

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<sup>65</sup> . See also UN General Assembly resolution 59/254 on NEPAD progress in implementation and international support which recalled resolution 57/2 of 16 September 2002 on the UN Declaration on the NEPAD. Also resolution 57/70/4 of November 2002 on the final review and appraisal of the UN Agenda for the Development of Africa in 1990s and support for NEPAD as well as resolution 50/233 of December 23, 2003 entitled NEPAD progress in implementation and international support. In paragraph 7 of this resolution, the General Assembly 'welcomed the progress that had been achieved in implementing the APRM, including through establishment of a trust fund to support the activities of the Mechanism to which participating countries will make financial contributions; the Assembly also welcomed 'the launching of support missions to several African countries'. In this resolution, the General Assembly extended its satisfaction to 'the progress made by the African countries in fulfilling their commitments in the implementation of the New Partnership to deepen democracy, human rights, good governance and sound economic management'. Also, it encouraged African countries, with the participation of stakeholders, including civil society organisations and the private sector to continue their efforts by developing and strengthening institutions for government and the development of the region.

<sup>66</sup> . Note 45, p. 17

<sup>67</sup> . Ibid



taken to the Africa Economic Summit.<sup>68</sup> Even though in practice more needs to be done to achieve tangible support and cooperation, there are several initiatives which show the commitment of the international community more especially the UN towards efforts to promote the NEPAD and the APRM.

The UN called upon developed countries to implement their various pledges; implement the 0.7% development assistance, extend debt relief to African countries and generally respond to the NEPAD/APRM initiatives with appropriate assistance. These pledges are crucial to the APRM. Their implementation should go a long way towards implementation not only of the APRM but of all Programmes of Action in reviewed countries.

With time, the cooperation between the APRM and the international community has become more detailed. For instance, the report<sup>69</sup> of the Sixth Africa Governance Forum held in May 2006 in the Rwanda capital city, Kigali, has a section entitled ‘a view from the Partners’, which gives an interesting summary of the role of the international community in the APRM. The international community at the Forum were accorded the opportunity to share their experiences in supporting the APRM as well as their perspectives for the future. Speaking on behalf of other Strategic Partners, the Economic Commission for Africa (ECA), explained that they recognised the need to accord immediate attention towards the strengthening of both the APRM Secretariat and the national institutions so as to enable them better able to implement the APRM objectives. It reported that it had, for itself, established a secretariat within its organisation specifically meant to address APRM concerns. Similarly, the African Development Bank (AfDB) reported that it had also established a unit especially in charge of the NEPAD/APRM issues. The UNDP reported that it had provided technical assistance both to the APRM Secretariat and to individual participating countries. UNDP’s support mainly targeted the strengthening of systems that oversaw the APRM process. To that extent, it had provided the APRM with management support towards the APRM Trust Fund to which it had contributed US\$ 2.75m. At another level, Strategic Partners have collectively reviewed various self-assessment reports prior to the submission to the APRM Forum.

In addition to the foregoing, the United Kingdom (UK), speaking as a bilateral partner, gave its own account and perspective of the APRM. Stressing the value of the ideals of the APRM, the UK, however, made the following highlights, caveats and recommendations:

### **Box 10**

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|--|
| a) The importance of good governance which entails accountability to citizens; capability to deliver services equitably; and the maintenance of peace; |
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<sup>68</sup> . Ibid, p. 18

<sup>69</sup> . Report of the Sixth Africa Governance Forum (AGF-V1), Implementing the African Peer Review Mechanism. Challenges and Opportunities, Kigali, Rwanda, 9-11 May 2006

- b) Identified peer learning as being important and that it should be strengthened by making it more participatory;
- c) Emphasised the need to reduce APRM's heavy dependence on Strategic Partners;
- d) Stressed the importance of National Programmes of Action (NPA) being integrated into the country's own budgetary systems.
- e) Suggested that the NPA should be formulated in a consultative and inclusive manner to include other wings of government beyond the APRM focal ministries;
- f) Recognised the need for NPA to be prioritised and integrated into country programmes rather than stand-alone enterprises; and
- g) Stressed that the focus of APRM should be on impact and positive change

In the discussion that followed the presentations, it was agreed that participating countries themselves would have to take the lead and cultivate the requisite political will as well as develop clear strategies on how to proceed with the APRM process. The issue of uneven social and political economies and therefore differences of capacities of participating countries was considered. It was recognised the process had to be aligned to the capacities of participating countries and not try to be uniform ignoring the different capacities. It was particularly emphasised that the NPA should always be part of self-assessments and that such plans should of necessity be treated as an integral part of the existing country-level programmes. Consequently, it was suggested that the budget of the NPA should be reflected in the national budgets of participating countries. Meanwhile, partners were urged to avoid setting up parallel implementation and monitoring systems and that donors should simplify the messages and avoid sending conflicting signals. It was also emphasised the importance of scaling up of participating countries' own contributions to the APRM to effectively drive the process. Also underlined was the role of the private sector in resource mobilisation as part of the efforts to stamp and reinforce local ownership of the process and to reduce external dependence.

In terms of post-review phase, there are clear signs that donors are trying to curtail a role they could play in the implementation of the Programme of Action. In Ghana, for example, the UNDP Resident Representative has sought ideas from civil society organisations and individuals on how the UNDP can participate in implementing the POA.<sup>70</sup> However, it is also clear that most of the passion with which donors welcomed both the NEPAD and APRM is slowly dissipating. At a meeting of some Canadian diplomats in various African countries held in Pretoria at which this author was asked to speak on the APRM, participants stated the view that due to several factors, western interest in NEPAD and APRM is not the same as when the two mechanisms were first born.<sup>71</sup> Among the reasons cited for the waning interest is Africa's changed position evidenced by recent growing interest in doing business with China. One of the diplomats explained that at one donor meeting he attended together with three African foreign ministers, he was the only one who spoke in support of NEPAD! The three African ministers dismissed NEPAD and explained that their countries had left NEPAD far

<sup>70</sup> . Email from Nana Oye Lithur , note 77

<sup>71</sup> . Workshop for African-based Canadian embassy staff officials, Arcadia, Pretoria, 20 March 2007

behind in their programmes and activities. The second reason they gave was the sudden African interest in China which they said signaled Africa's radical change of position in international relations from the west towards having closer economic and political ties with China.

## 10. Role of civil society

The very notion of peer review anticipates an activist role for civil society. Peer review supported by active societal involvement is what will realise the various outcomes perceived in the APRM. It is due to this that the APRM framework and system specifically mentioned the need for inclusivity. Including society is a pre-condition for a demonstrably viable peer review exercise.

Therefore, it is a methodological requirement for the APRM process at national level to include civil society both in the national co-ordinating body both as members and participants in the processes of developing the self-assessment Report and Programme of Action. Experience from reviewed countries is that more than this, civil society would like to be involved at virtually all levels of the APRM but particularly at the Panel and especially during APR Forum meetings.

Nevertheless, civil society has not fully exploited its role in trying to influence the APRM process – at least not as much as the concept entitles them. Documented literature<sup>72</sup> on civil society and the APRM displays an uncharted territory as far as civil society is concerned. Besides isolated rhetorical voices from time to time, civil society has simply not been active in asserting ownership of the APRM. This is particularly but not only the case at continental level. Some of the reasons suggested for this include lack of funding in civil society to pursue this particular activity, inadequate understanding, inadequate technical skills and capacity to do effective monitoring and advocacy of the APRM process, absence of time due to other equally demanding tasks, etc.<sup>73</sup>

An exception, however, is the South African-based non-governmental organisations<sup>74</sup> who, to a very great extent acquitted the obligation to lobby and play catalytic roles towards the development of the APRM. What is interesting with the South African NGOs is that even with the presence of some of their colleagues both at the Governing Council and as Research Institutions, effectively writing the self-assessment report, those outside still are very critical even adversarial towards the process. Even more interesting is that Governing Council members from the NGO sector have not shied away in taking on the national focal person Minister of Public Administration to contest certain aspects of the

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<sup>72</sup> . Civil Society in APRM; [www.sarpn.org.za](http://www.sarpn.org.za); NEPAD & Civil Society Participation in the APRM, [www.idasa.org.za](http://www.idasa.org.za); Third Meeting of the Committee on Human Development & Civil Society, ECA, 4-6 May 2005, Addis Ababa, Ethiopia; Zachary Ochiens, APRM: Time to address Government & Civil Society Concerns, November 2006, [www.newsfromafrica.org/newsfromafrica/articles/art\\_10805.htm](http://www.newsfromafrica.org/newsfromafrica/articles/art_10805.htm)

<sup>73</sup> . reasons constraining participation of the NGOs

<sup>74</sup> . See: Ayesha Kake, NEPAD's APRM. A Progress Report, Practical Limitations & Challenges, South Africa Yearbook of International Affairs, 2003/04

process on television while remaining members. The only problem, however, is that quite often, their contestations and positions are technically wrong.<sup>75</sup>

An example of this effectiveness of participation by NGOs in South Africa is the Johannesburg-based Electoral Institute of Southern Africa (EISA) which has prepared an APRM Toolkit targeted for NGOs which they can download from the website.<sup>76</sup> EISA is trying to popularise the APRM among NGOs at the same time as trying to improve capacity of civil society officials to engage the APRM process. The problem, however, is that most of the materials hosted in the Toolkit are still in the same technical jargon ordinary civil society officials cannot easily consume.

We have already indicated the vocal and unforgiving role Kenyan NGOs played more particularly during the establishment of the process. The activism was so intense the Governing Council chairman had to resign in the furor. They were assisted in this by an equally vocal press which at one time at least had to be corrected by the continental APRM Secretariat in some of its excesses. In Ghana, during the Country Review Mission, NGOs demonstrated vigilance. Besides addressing the Review Mission on pertinent issues, they lobbied individual members of the Mission for some of their views to be included. It is clear, however, that quite apart from being located in South Africa where the APRM is based, South African NGOs have the additional advantage relative to their colleagues in other countries of having easier access to resources.<sup>77</sup> Given this, it is no wonder South African-based NGOs have tried both to interest their colleagues in other participating countries into engaging the APRM and to urge them to network in order to address the odd scales most of them face.

Again, all the five reviewed countries sub-contracted their research work to Research Institutions. This is unique. Normally, an African Government would never open a file to a non civil servant who is not entitled to have access to it. In State party reporting mechanism under various human rights treaties, rarely do governments sub-contract the task of preparing the State party report as happened during the review processes in the five countries. Besides being politically sensible for the government to do this as a means of promoting participation, it improves the technical quality of the report. Politically, it adds to the claim that the self-assessment is a country and not government exercise. But civil society still queried the content of the report.<sup>78</sup>

In spite of this, however, NGOs, as indicated, generally tend to be passive in responding to APRM work. Instead of demanding participation, most of them are content with responding to invitations. Attendance in APRM activities in Ghana during the Country Review Mission was by invitation. Similarly, civil society attendance at National Consultative meetings in South Africa was by invitation. While in these meetings, civil society participation is very lively except in instances where they are not in possession of relevant information.

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<sup>75</sup> . Note 17

<sup>76</sup> . [www.eisa.org.za](http://www.eisa.org.za)

<sup>77</sup> See Ross Herbert, *Influencing APRM: A Checklist for Civil Society*, SAIIA, 2002.

<sup>78</sup> . [www.nepad.org.nepad](http://www.nepad.org.nepad); [www.aprm.org.za](http://www.aprm.org.za)

In Francophone Africa, Partnership Africa Canada has been at the forefront spreading the APRM concept to civil society. Partnership Africa Canada organised at least five workshops sensitizing civil societies in that region on the APRM.<sup>79</sup> In addition, the Economic Commission for Africa (ECA) has also conducted workshops in Francophone Africa but also other parts of Africa educating civil society on aspects of the APRM. In the Partnership Africa Canada-driven workshops, each would conclude with a declaration calling on authorities to actively disseminate information on the APRM and to take necessary measures to undergo the peer review process.

### **10.1 Civil Society in Post-Review Process**

But it was not clear to most NGOs in Ghana, Rwanda, Kenya, South Africa and Algeria, what role if any they should play in the post-review process. In South Africa, this is still being discussed between authorities and civil society. The first post-review workshop for stakeholders was organised by government on 10th September 2007.<sup>80</sup> Committees were set up to look in more detail at the Programme of Action, the first natural step towards implementation.

Some NGOs in Ghana however are already using the Programme of Action to advocate for action from the government in the areas identified as needing action.<sup>81</sup> Citing the Programme of Action as authority, they have done this, for example, to demand that Ghana ratifies the Convention against Disability. Others have applied for funding from donor organisations to undertake activities identified in the Report basing the proposals on information from these documents.<sup>82</sup> However, the majority of NGOs consider the submission of the final document by the President to the APR Forum as the end result of the process.

There is urgent need to educate NGOs and other members of civil society on their roles and responsibilities beyond the peer review. In fact, the work of civil society in the APRM begins when the process ends. NGOs need to monitor the implementation of the Programme of Action and to evaluate performance. This is the time for civil society to forcefully and vigilantly undertake the monitoring of the implementation of the Programme of Action. The Programme of Action is the most important product of the APRM, therefore, its implementation is crucial to the success of the APRM as a whole.

## **11. Programme of Action (POA)**

### **Box 11**

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<sup>79</sup> . Partnership Africa Canada, [www.pacweb.org/e/images/stories](http://www.pacweb.org/e/images/stories)

<sup>80</sup> . Invitation to a national workshop on the APRM POA; 10th September 2007, Reserve Bank, Tshwane from 11h00 to 16h00. The letter dated 15/08/07 was sent by national focal point and Chairperson of the National Governing Council, Minister of Public Service Ms. G.J. Fraser-Moleketi.

<sup>81</sup> . Email from Nana Oye Lithur, note 77

<sup>82</sup> . Ibid

The primary purpose of the National Programme of Action<sup>83</sup> is to guide and mobilise the country's efforts in implementing the necessary changes to improve its state of governance and socio-economic development. In addition, the National Programme of Action is the key input delivered by the country into the peer review, and it, therefore, serves to present and clarify the country's priorities; the activities undertaken to prepare and participate in the APRM; the nature of the national consultations; as well as to explicitly explain the responsibilities of various stakeholders in government, civil society and the private sector in implementing the Programme.

As such, the National Programme of Action should include the following:

- a. Assessment of compliance with the APRM Objectives, Standards, Criteria, and Indicators, and a discussion of major development and governance challenges facing the country;
- b. Outline of the priorities for enhancing governance and socio-economic development in the short, medium and long term;
- c. Description of ongoing efforts by the country in this regard, like PRSPs or other poverty reduction programmes, MDG strategies, Human Rights Action Plans, institutional reforms, and other development strategies;
- d. Clear, time-bound commitments on key governance and socio-economic development priorities over the next 3 years, including the identification of key stakeholders for implementation, and the estimated budgetary implications and allocations;
- e. Description of national consultations that have taken place during the self-assessment and development of the National Programme of Action;
- f. Outline the feedback mechanism established to keep local stakeholders involved in the process, including efforts to disseminate information in an easily accessible and understandable manner;
- g. Description of the capacity building and resource mobilisation requirements for undertaking the Programme of Action; and
- h. Outline the implementation, monitoring and evaluation mechanisms for the Programme of Action

We have already discussed this particular item in self-assessments and Country Review Reports. Therefore, only limited references will be made here. The POA is the direct result of self-assessment. It is the outcome of the APRM process in a participating Country. Having exposed a country's record in the four thematic areas, both the good and bad practices, the POA then answers the question 'what should be done to address the challenges and constraints identified?'

Developing a programme and an indication of action to be taken is the most important phase of APRM process. It is a political, social, economic and cultural function which should be inclusive, participatory and transparent. It is not a purely technical function of simply getting the most highly qualified expert at proposal development; more than this,

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<sup>83</sup> . NEPAD/APRM/Pane13/guidelines/11-2003/Doc8

it requires high level knowledge of the environment of the country as well as society and political endorsement. Knowledge of the country and particularly why things happen the way they do and what action to take to address those things is an important basis for developing programmes and actions.

POA development is a strategic process. It entails the application of the highest imperatives of governance including popular participation and transparency. If people broadly are genuinely integrated in conceptualisation, planning and development, implementation will be much easier because instead of looking to outside help to execute the POA, people - once convinced it is good for them - will do the implementation themselves. Therefore, in addition to the need to be technically accurate in the programme design, the method by which it is knitted together is even more important for implementation.

As expected, all the five participating countries under consideration came up with their POAs.<sup>84</sup> While the methodology used was broadly the same, their contents of course were different. This reflects different priorities, circumstances and conditions from country to country. But there were similarities too. For example, action to deal with some of the negative consequences of diversity echoed a similar line across all the five countries. In South Africa, diversity opaquely manifests in skin pigmentation as in during apartheid while in Rwanda it takes an internal dimension of ethno-cultural racism which led to genocide in 1994. Ethnicism in Kenya echoes that of Rwanda. In Ghana, on the other hand, which is partly like in Kenya, the issue under this concept is regionalism or lack of paying equal attention to all regions' development needs - specifically the north of Ghana. Therefore, the programmes in these three countries had to articulate this particular challenge from different perspectives.

Ghana needed to take action to facilitate women's participation in public life and their protection from harmful traditions and cultural practices. Similarly, Algeria had to come up with action to push for women's participation in public life and therefore their emancipation. While Rwanda and South Africa have scored successes in promoting women's participation in public life and therefore need not prioritise this in their programmes, they too needed to do so in as far as protecting women from harmful traditional practices and cultures. Again, South Africa since the adoption of its current Constitution has operated on generally agreed principles of democracy in conducting elections to public elected office, Rwanda's Programme of Action as well as that of Algeria needed to prioritise this particular aspect. Of course, action against poverty was echoed in all the Programmes - being universal in Africa, not just in these five countries.

In Ghana, the process of developing the POA was protracted.<sup>85</sup> The Country Review Mission had to contend with the draft POA during the visit. Rwanda Programme of Action was mostly focussed on filling-up the implementation gaps which implied that

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<sup>84</sup> . POAs for Ghana – [www.nepad.org/2005/files/aprm/APRMGhanareport.pdf](http://www.nepad.org/2005/files/aprm/APRMGhanareport.pdf); Rwanda-  
[www.nepad.gov.rw/index.php](http://www.nepad.gov.rw/index.php); Kenya - [www.aprmkenya.org/about.php](http://www.aprmkenya.org/about.php), South Africa – [www.aprm.org.za](http://www.aprm.org.za);  
and Algeria - [www.pacweb.org/e/images/stories/documents/aprm](http://www.pacweb.org/e/images/stories/documents/aprm)

<sup>85</sup> . Ibid

except for some few lacunas, previous programmes were generally adequate. Authorities estimated the cost of implementing the POA to be around US\$ 95 million, which is a far cry from both Ghana's and Kenya's estimated US\$ 5 billion and more. South Africa estimated the cost of its POA to be in excess of 9 billion Rand. Of course, some of the actions are short-term, medium and long-term based on several factors.

One of the most important challenges is the status of the APRM Programme of Action in the national domain. It has been a challenge whether to make the POA separate from existing programmes and efforts. In Ghana, though civil society disagrees, the Governing Council has indicated that the APRM Programme of Action has since been incorporated into the national programmes. In South Africa, the September 10, 2007 consultative meeting called to chart the way forward towards implementing the POA revealed that government married the APRM programme with the national programme or at least it is working towards that end. Luckily, the APRM Guidelines as indicated anticipated this problem. The principle is that the APRM programme should complement the existing programmes even as it seeks to retain its distinct identity. All the five countries including Ghana, Rwanda and Kenya that were reviewed earlier are still developing the *modus operandi* of ensuring the implementation of their POAs. It should be noted that the APRM Strategic Partners – ADB, UNECA, and the ADB – have embarked on a research project investigating how to systematically cost the APRM-PoAs and integrate them into the existing National Development Strategies and their budgets.

Below is information in statistical form about the APRM budget and general financial situation as presented by the APRM in May 2007:<sup>86</sup>

## **Conclusion**

The APRM is the boldest attempt by African leaders to fix the broken governance records on the continent. Previously, it was taboo for Africa's leaders to discuss each other's internal governance issues including lapses in human rights and the rule of law. However serious these might be, it was simply unconventional for one country to discuss another country. This is rapidly changing.

Starting with human rights, Conventions have been introduced including the African Charter on Human and Peoples' Rights aimed at curtailing the power of State in enhancing individual dignity. In January this year, the African Charter on Democracy, Elections and Governance was adopted. The introduction of the NEPAD, and with it the APRM, highlights Africa's desire to create enough space for the participation in governance of ordinary men and women and make Africa more stable and safe to live in. But the process of achieving that is a long one. The five countries that have completed the five stages of the APRM process have acquired enormous experiences which can be tapped to enrich the upcoming processes. This paper was aimed at providing a

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<sup>86</sup> . Prepared by the APRM for the Eighth Gathering of the African Partnership Forum, Berlin, Germany, 22 to 23 May 2007. The information is included in the paper prepared by the APRM for the Berlin Conference entitled: The African Peer Review Mechanism (APRM): Africa's Innovative Thinking on Governance. [www.nepad.org/aprm/nepad](http://www.nepad.org/aprm/nepad).



background for the discussion on how APRM has benefitted the countries, including all stakeholders, that have undertaken the Review and a frank assessment by these countries and other key stakeholders on the potential role of the international community in going forward with the Programmes of Action.